

**§ 21.4505 Check delivery.**

(a) *General.* Education loans by the Department of Veterans Affairs shall be made by a check payable to the eligible spouse or surviving spouse and shall be mailed promptly to the educational institution in which the eligible spouse or surviving spouse is enrolled for delivery by the educational institution.

(b) *Delivery and certification.* (1) The educational institution, electing to participate in this program, shall deliver an education loan check to the eligible spouse or surviving spouse and shall certify the fact of delivery to the Department of Veterans Affairs immediately upon delivery. If the delivery is not made within 30 days after the institution receives the check, it shall return the check to the Department of Veterans Affairs.

(2) The Director of the Department of Veterans Affairs facility of jurisdiction may direct that education loan checks be sent directly to spouses or surviving spouses when:

(i) The educational institution demonstrates an inability to comply with these requirements; or

(ii) The educational institution fails to provide adequately for the safekeeping of the checks prior to the delivery to the student or return to the Department of Veterans Affairs; or

(iii) The educational institution elects not to participate in this program; or

(iv) There is compelling evidence that the institution is unable to discharge its responsibilities under this program.

(Authority: 38 U.S.C. 3512(f), 3698)

[44 FR 62508, Oct. 31, 1979, as amended at 61 FR 26116, May 24, 1996]

**§ 21.4507 Advertising.**

(a) *General.* No educational institution or training establishment shall include a statement in advertisements or brochures intended to solicit students as to the availability of education loans from the Department of Veterans Affairs for eligible spouses and surviving spouses, except as provided in paragraph (b) of this section.

(b) *Form.* The statement which is permitted shall be as follows: "Certain eli-

gible spouses and surviving spouses may qualify for a maximum educational loan of \$2,500 per academic year from the Department of Veterans Affairs depending upon need. Applications for such loans shall be made to the Department of Veterans Affairs on forms prescribed by it."

(Authority: 38 U.S.C. 3512(f), 3696, 3698(b))

[44 FR 62510, Oct. 31, 1979, as amended at 61 FR 26116, May 24, 1996]

**Subparts F-1—F-2 [Reserved]**

**Subpart F-3—Service Members Occupational Conversion and Training Program**

AUTHORITY: 10 U.S.C. 1143 note; sec. 4481-4497, Pub. L. 102-484, 106 Stat. 2757-2769; sec. 610, Pub. L. 103-446, 108 Stat. 4673-4674, unless otherwise noted.

SOURCE: 60 FR 5852, Jan. 31, 1995, unless otherwise noted.

**GENERAL**

**§ 21.4800 Service Members Occupational Conversion and Training Program.**

Sections 21.4800 through 21.4856 regulate a Service Members Occupational Conversion and Training Program. The purpose of this program is to assist members of the Armed Forces who are forced or induced to leave military service by reason of the drawdown of the Armed Forces and to provide the Secretary of Defense with another tool to manage that drawdown. The program assists eligible persons in entering the civilian workforce through training for employment in a stable and permanent position that involves significant training. VA makes payments to employers who employ and train eligible veterans in these jobs. The payments assist employers in defraying the costs of necessary training.

(Authority: Subtitle G, Pub. L. 102-484, 106 Stat. 2757-2769, 10 U.S.C. 1143 note)

**§ 21.4801 [Reserved]**

**§ 21.4802 Definitions.**

For the purpose of the Service Members Occupational Conversion and Training Program described in §§ 21.4800

through 21.4856 the following definitions apply.

(a) *Active duty*. The term *active duty* means:

(1) Full-time duty in the Armed Forces, other than active duty for training;

(2) Full-time duty (other than for training purposes) as a commissioned officer of the Regular or Reserve Corps of the Public Health Service;

(3) Full-time duty as a commissioned officer of the National Oceanic and Atmospheric Administration;

(4) Service as a cadet at the United States Military, Air Force or Coast Guard Academy, or as a midshipman at the United States Naval Academy, and

(5) Authorized travel to or from such service.

(Authority: 106 Stat. 2757, Pub. L. 102–484, sec. 4483(2), 10 U.S.C. 1143, note)

(b) *Active duty for training*. (1) The term *active duty for training* means:

(i) Full-time duty in the Armed Forces performed by Reserves for training purposes,

(ii) Full-time duty for training purposes performed as a commissioned officer of the Reserve Corps of the Public Health Service,

(iii) In the case of members of the Army National Guard or the Air National Guard of any State, full-time duty under section 316, 592, 593, 594 or 505 of title 32, U.S. Code,

(iv) Duty performed by a member of a Senior Reserve Officers' Training Corps program when ordered to such duty for the purpose of training or a practice cruise under chapter 103 of title 10, U.S. Code for a period of not less than four weeks and which must be completed by the member before the member is commissioned, and

(v) Authorized travel to or from such duty.

(2) The term does not include duty performed as a temporary member of the Coast Guard Reserve.

(Authority: 106 Stat. 2757, Pub. L. 102–484, sec. 4483(2), 10 U.S.C. 1143, note)

(c) *Active military, naval or air service*. The term *active military, naval or air service* includes active duty, any period of active duty for training during which the individual concerned was disabled from a disease or injury in-

curred or aggravated in line of duty, and any period of inactive duty training during which the individual concerned was disabled from an injury incurred or aggravated in line of duty.

(Authority: 106 Stat. 2757, Pub. L. 102–484, sec. 4483(2), 10 U.S.C. 1143, note)

(d) *Compensation*. The term *compensation* means a monthly payment made by the Department of Veterans Affairs to a veteran because of a service-connected disability.

(Authority: 106 Stat. 2757, Pub. L. 102–484, sec. 4483(2), 10 U.S.C. 1143, note)

(e) *Eligible person*. The term *eligible person* means a veteran who—

(1) Was discharged after August 1, 1990, and

(2) Either—

(i) Served in the active military, naval or air service for a period of more than 90 days, or

(ii) Was discharged or released from active duty because of a service-connected disability.

(Authority: 106 Stat. 2758, Pub. L. 102–464, sec. 4485(a)(2), 10 U.S.C. 1143, note)

(f) *Employer*. The term *employer* means a person or business or other entity which—

(1) Hires the veteran,

(2) Provides work, wages, and supervision,

(3) Either provides or arranges for training for the veteran, and

(4) Can make the certification required by § 21.4822(a).

(Authority: 106 Stat. 2762, Pub. L. 102–484, sec. 4487, 10 U.S.C. 1143, note)

(g) *Full-time employment*. The term *full-time employment* means employment which requires the employee to work a regular schedule of hours per day and days per week established as the standard full-time workweek at the employee's training establishment.

(Authority: 106 Stat. 2758, Pub. L. 102–484, sec. 4485(a)(3), 10 U.S.C. 1143, note)

(h) *Inactive duty training*. (1) The term *inactive duty training* means:

(i) Duty (other than full-time duty) prescribed for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by the Secretary concerned under section 206

of title 37 or any other provision of law;

(ii) Special additional duties authorized for Reserves (including commissioned officers of the Reserve Corps of the Public Health Service) by an authority designated by the Secretary concerned and performed by them on a voluntary basis in connection with the prescribed training or maintenance activities of the units to which they are assigned,

(iii) Training (other than active duty for training) by a member of, or applicant for membership (as defined in section 8140(g) of title 5, U. S. Code), in the Senior Reserve Officers' Training Corps prescribed under chapter 103, of title 10, U. S. Code, and

(iv) In the case of a member of the Army National Guard or Air National Guard of any State, such term means duty (other than full-time duty) under sections 316, 502, 503, 504 or 505 of title 32, U. S. Code.

(2) The term does not include:

(i) Work or study performed in connection with a correspondence course,

(ii) Attendance at an educational institution in an inactive status, or

(iii) Duty performed as a temporary member of the Coast Guard Reserve.

(Authority: 106 Stat. 2757, Pub. L. 102-484, sec. 4483(2), 10 U.S.C. 1143, note)

(i) *Intermittent job*. The term *intermittent job* means a less than full-time job in which the employee is given no advance regular work schedule due to the unpredictable and sporadic nature of the work needed for the job.

(Authority: 106 Stat. 2760, Pub. L. 102-484, sec. 4486(b)(1), 10 U.S.C. 1143 note)

(j) *Normal starting hourly wage*. (1) The term *normal starting hourly wage* means, except as provided in paragraph (j)(2) of this section, the wage paid per hour (exclusive of overtime, premium pay or fringe benefits) on the first day of the job training program to an eligible person whose training program has not been shortened as a result of the employer's evaluation of an eligible person's prior training. This definition applies as to the eligible person whose job training program actually has been shortened, and who, therefore, begins training at a higher hourly wage.

(2) For any eligible person to whom the Davis-Bacon Act applies the term *normal starting hourly wage* means:

(i) The training wage payable under the Davis-Bacon Act (exclusive of overtime, premium pay or fringe benefits) to the eligible person on days during the job training program when the Davis-Bacon Act applies, and

(ii) On days when the Davis-Bacon Act does not govern the wages paid to the eligible person, the wage as determined by paragraph (j)(1) of this section.

(Authority: 106 Stat. 2762, Pub. L. 102-484, sec. 4487, 10 U.S.C. 1143 note)

(k) *Part-time employment*. The term *part-time employment* means permanent employment in a position in which the employee works a regularly scheduled number of hours each workweek that is less than the number of hours customarily required for full-time employment in that position.

(Authority: 106 Stat. 2758, Pub. L. 102-484, sec. 4485(a)(3), 10 U.S.C. 1143 note)

(l) *Permanent employment*. The term *permanent employment* means employment which is clearly continuous in nature. Thus, the term does not include employment which is seasonal, time-limited, or expected to terminate upon completion of a particular product, task, obligation, contract, or assignment.

(Authority: 106 Stat. 2758, Pub. L. 102-484, sec. 4485(a)(3), 10 U.S.C. 1143 note)

(m) *Related job*. The term *related job* means a job which has the following characteristics when compared to another job.

(1) The *Dictionary of Occupational Titles*, 4th edition, revised 1991, shows that—

(i) Both jobs are in the same occupational group, and

(ii) The second job requires the same or higher specific vocational preparation level as the job to which it is being compared, and

(2) The salary being paid to employees with comparable experience and training in the second job is the same or greater than the salary paid in the job to which it is being compared.

(Authority: 106 Stat. 2762, Pub. L. 101-484, sec. 4487(b)(3), 10 U.S.C. 1143, note)

(n) *Seasonal job*. The term *seasonal job* means a job which is subject to a seasonal need or availability resulting in no work for the employed person for 90 or more consecutive calendar days.

(Authority: 106 Stat. 2760, Pub. L. 102–484, sec. 4486(b)(1), 10 U.S.C. 1143 note)

(o) *Secretary*. The term *Secretary* means the Secretary of Veterans Affairs unless otherwise indicated by the text of the sentence in which the term appears.

(Authority: 106 Stat. 2760, Pub. L. 102–484, sec. 4486(b)(1), 10 U.S.C. 1143 note)

(p) *Service-connected*. The term *service-connected* means, with respect to disability, that the disability was incurred or aggravated in line of duty in the active military, naval or air service.

(Authority: 106 Stat. 2758, Pub. L. 102–484, sec. 4483(2), 10 U.S.C. 1143, note)

(q) *State*. The term *State* means each of the several States, Territories, and possessions of the United States, the District of Columbia and the Commonwealth of Puerto Rico.

(Authority: 106 Stat. 2758, Pub. L. 102–484, sec. 4483(2), 10 U.S.C. 1143, note)

(r) *Temporary employment*. The term *temporary employment* means employment other than permanent employment.

(Authority: 106 Stat. 2759, Pub. L. 102–484, sec. 4485(a)(3), 10 U.S.C. 1143 note)

(s) *Temporary job*. The term *temporary job* means a time-limited job, particularly one of known, expected, or intended short duration (generally, not to exceed one year and, frequently, shorter).

(Authority: Pub. L. 102–484, sec. 4486(b)(1), 10 U.S.C. 1143 note)

(t) *Unemployed*. The term *unemployed* means that a person is without full-time, permanent employment and wants and is available for full-time, permanent employment.

(Authority: 106 Stat. 2760, Pub. L. 102–484, sec. 4485(a)(3), 10 U.S.C. 1143 note)

(u) *Veteran*. The term *veteran* means a person who—

(1) Served in the active military, naval or air service, as defined in paragraph (c) of this section, and

(2) Was discharged or released therefrom under conditions other than dishonorable.

(Authority: 106 Stat. 2757, Pub. L. 102–484, sec. 4483(2), 10 U.S.C. 1143 note, 38 U.S.C. 101(2))

## §§ 21.4803–21.4809 [Reserved]

### ELIGIBILITY

#### § 21.4810 Eligibility requirements for participation.

To establish eligibility for participation in the Service Members Occupational Conversion and Training program, an eligible person, on the date of application, must—

(a)(1) Be unemployed, and

(2) Have been unemployed for at least 8 of the 15 weeks immediately preceding the date of his or her application for participation in a job training program under this subpart, or

(b) Be separated from the active military, naval or air service and must have had a primary or secondary occupational specialty in the Armed Forces which (as determined under regulations prescribed by the Secretary of Defense and in effect before the date of the eligible person's separation) is not readily transferable to the civilian workforce; or

(c) Be entitled to compensation (or but for the receipt of military retired pay would be entitled to compensation) under laws administered by VA for a service-connected disability rated at 30 percent or more.

(Authority: 106 Stat. 2758, Pub. L. 102–484, sec. 4485(a)(1)(B) and (C) 10 U.S.C. 1143 note)

#### § 21.4811 [Reserved]

#### § 21.4812 Application and certification.

(a) *Application*. An individual must apply to a facility of the Veterans Benefits Administration for participation in a job training program using the form prescribed by VA.

(Authority: 106 Stat. 2759, Pub. L. 102–484, sec. 4485(b)(1), 10 U.S.C. 1143 note)